

MINUTES OF BOARD OF APPEALS MEETING OF September 2, 2014: Town Hall Banquet Room

I. ADMINISTRATIVE BUSINESS

Chairman Peter DeTerra – Opened the meeting at 6:00 p.m.

Quorum/Attendance

Members Present – Chairman Peter DeTerra, Peg Cook, Daryl Manchester, Joe Borelli, Fran Cox, Jr. Ken Kendall (Assoc.), Al Silva (Assoc.), Jaime DeSousa (Assoc.) and Rene Fleurent, Jr. (Assoc.)

Minutes: Chairman DeTerra asked for a motion to accept the minutes of August 5, 2014. Mr. Cox, Jr. motioned to accept the minutes. Mr. Fleurent, Jr. seconded. The vote was unanimous.

II. PUBLIC HEARING:

1. Petitioner: Paul Downey, Mill Bridge Holdings, Inc., RE: 200 Mill Road, Plat 36, Lot 11A, Book 7155 and Page 238; 198-27-C4: Short 10' of the required 50' landscape setback on Mill Road and Short 50' of the required 50' landscape setback north side.

The petition was read and there were 26 abutters notified. The petitioner was represented by Bob Field, P.E. of Field Engineering, Inc. The petitioner requested a continuance to October 7, 2014. The proposed plans are under review by the abutter to the site, Southcoast Hospitals, and have not received approval as of today. The site plans may change.

Mr. Cox, Jr. motioned to continue the hearing to October 7, 2014; Mr. Kendall seconded. The vote was unanimous.

The hearing is CONTINUED to October 7, 2014 by a unanimous vote of the Board.

2. Petitioner: Michael & Sharon McCaul, RE: 56 Bayview Avenue, Plat 28A, Lot 438; Book 10739 and Page 230; 198-18: Short 9'8" of the required 10' side setback in a RA District.

The Chairman explained that this is a re-do vote as instructed by the Ethics Commission. The original vote taken on August 5, 2014, was taken erroneously because a Board member who is an abutter voted on the matter.

Motion to grant the Variance was made by Mr. DeSousa; seconded by Mr. Fleurent, Jr.
Members voting to grant the Variance: Mr. DeTerra, Mr. Borelli, Mr. Cox, Jr., Mr. DeSousa and Mr. Silva.
Members voting not to grant the Variance: None.

The Variance is GRANTED with a vote of five (5) in favor and none (0) opposed.

3. Petitioner: Max Isaksen for Gail Isaksen, RE: 5 Widemarsh Beach Way, Plat 29, Lot 33I; Certificate #2220; 198-32.2: A Special Permit for a dock or pier is required in a RR District.

The petition was read and there were 9 abutters notified. The petitioner was represented by Susan Nilson, P.E. of CLE Engineering. The petitioner would like to construct a dock that will be zoning compliant. It will be for jet boats and will use a hoist with no float required. A written presentation was reviewed. The presentation is part of this record.

Motion to grant the Special Permit was made by Mr. Kendall; seconded by Mr. Cox, Jr.
Members voting to grant the Special Permit: Mr. Borelli, Mr. Cox, Jr., Mr. Kendall, Mr. Manchester and Ms. Cook.
Members voting not to grant the Special Permit: None.

The Special Permit is GRANTED by a vote of five (5) in favor and none (0) opposed.

4. Petitioner: Jose Cordeiro, RE: 28 Fort Street, Plat 3, Lot 4; Book 9976 and Page 86; 198-32.2: A Special Permit for a dock or pier is required in a RA District.

The petition was read and there were 25 abutters notified. The petitioner was represented by Susan Nilson, P.E. of CLE Engineering. The petitioner is a new buyer of the property and wishes to take the existing non-compliant gangways and make them into a compliant dock and pier. A written presentation was reviewed. The presentation is part of this record.

Motion to grant the Special Permit was made by Mr. Fleurent, Jr.; seconded by Mr. Cox, Jr.
Members voting to grant the Special Permit: Mr. Borelli, Mr. Cox, Jr., Mr. Fleurent, Jr., Mr. Manchester and Ms. Cook.
Members voting not to grant the Special Permit: None.

The Special Permit is GRANTED by a vote of five (5) in favor and none (0) opposed.

5. Petitioner: Linda Crompton, RE: 41 Seaview Avenue, Plat 29C, Lot 137; Book 3339 and Page 217; 198-16 Accessory Uses-Note 8: A Special Permit is required for the storage of a camper or mobile home.

The petition was read and there were 49 abutters notified. The petitioner was represented by Gary Staffon. The petitioner has a small camper and would like to store it on one of the three lots she owns and to which her house at 38 Ocean Avenue abuts. She uses the camper during the summer but spends most of the winter in Florida. She would like to store it at her property while she is not here. Abutters in favor of the request are Michael & Katherine DeConnica, 52 Ocean Avenue and Janice Martin, 61 Seaview Avenue. A letter from Rita Pinto, 64 Seaview Avenue against the request was read and is part of this record. Board members expressed some concern that the camper may be used as habitable space. Discussion ensued.

Motion to grant the Special Permit with the condition that the camper not be used for living purposes was made by Mr. Cox, Jr.; seconded by Mr. Kendall.
Members voting to grant the Special Permit with the condition as noted: Mr. Borelli, Mr. Cox, Jr., Mr. DeTerra, Mr. Manchester.
Members voting not to grant the Special Permit: Ms. Cook.

The Special Permit is GRANTED by a vote of four (4) in favor and one (1) opposed.

6. Petitioner: Iskandar Sarkis for Route 6 Properties, LLC, RE: 4 Shirley Street, Plat 26, Lot 13M; Book 10945 and Page 248; 198-18: Short 15' of the required 20' setback for display of used cars.

The petition was read and there were 18 abutters notified. The petitioner and his wife stated they purchased the property in 2013. They have cleaned it up of brush and litter and are using it to display used cars. They understand now that a variance is required to continue the use. Mr. Ouellette of 7 Shirley Street stated they have cars along Shirley Street now and a tow truck. Something needs to be done because the neighborhood is residential. The Chairman explained the Board can only address the request under its jurisdiction. Such matters as presented need to be addressed to the Planning Board, Board of Selectmen or Police Department. Discussion amongst the Board members ensued.

Motion to grant the Variance was made by Mr. Cox, Jr.; seconded by Mr. DeSousa.
Members voting to grant the Variance: Mr. Borelli, Mr. Cox, Jr., Mr. DeSousa, Mr. Manchester and Ms. Cook.
Members voting not to grant the Variance: None.

The Variance is GRANTED by a vote of five (5) in favor and none (0) opposed.

7. Petitioner: Monica & Donald Kelly, RE: 345 Bridge Street, Plat 30, Lot 18; Book 10999 and Page 088; 198-19-B: No boundary fence, wall, or hedge shall exceed six feet (6') in height, and no boundary fence, wall, hedge, or other landscape feature, which obstructs vision shall exceed forty-two inches (42") in height within any required front yard or within twenty feet (20') of the street whichever the lesser requirement.

The petition was read and there were 4 abutters notified. The petitioners stated they placed the fence to provide privacy and for safety reasons as the street is very busy with fast cars and motorcycles. They fear for their grandchildren's safety. When notified they stopped work on the fence. They have spent \$3000 on materials and three weeks of their labor. They cannot move the fence 20' in because it will be on top of their septic system. Mr. Wayne Gallant of 349 Bridge Street stated he is neither opposed or in favor but has concerns for the house to the rear which he owns and rent. The renters cannot see as they leave the property driveway along Mill Road and it is very dangerous traffic along Bridge Street and Mill Road. The Chairman asked Mr. Andrew Bobola, Assistant Building Inspector to explain the problem. He stated Bridge Street is a 50' wide road. Where the fence is now is town Property. As the fence was being erected he visited the site and informed Mr. Kelly there is a problem. Mr. Kelly continued with the fence. Mr. Kelly stated he did go to town hall after receiving a written notice but was not given a copy of the regulations. He is subsequently in housing court with the Building Department regarding this issue. A letter from the Board of Public Works superintendent John Charbonneau was read regarding the town property line and is part of this record. Mr. DeSousa stated there are two violations of the By-Law with the fence, 1) is that the fence is on town property and, 2) is that the fence is 6' in height in a front yard. The Board just recently required another petitioner in town to cut their fence to 42" for the same reason. That petitioner also had concerns over privacy and safety. The petitioners believe the fence is on their property. The Chairman asked if they wish to get the property surveyed also stating that the plan for the approved and engineered septic system installed just last year shows the surveyed property line. Board discussion ensued. The petitioner stated he may wish to continue to consider this. Discussion ensued.

Motion to grant the Variance was made by Mr. Borelli; seconded by Mr. Cox, Jr.

Members voting to grant the Variance: None

Members voting not to grant the Variance: Mr. Borelli, Mr. Manchester, Mr. Cox, Jr. and Mr. DeTerra

Member abstaining: Ms. Cook

The Variance is DENIED by a vote of none (0) in favor, four (4) opposed and one (1) abstention.

8. Petitioner: Robert J. Fitts, Jr., RE: 448 Main Street, Plat 21, Lot 3; Certificate #18746; 198-23B: A Special Permit is required for a Home Occupation in the Building Trades.

The petition was read and there were 46 abutters notified. The petitioner is an electrician and would like a home office. There will be nothing stored on the property, he will use an existing space in the home, there will be no increased traffic. Bonnie Fitts is in favor of the request. A letter in favor of the request from The Johansen's, 42 Harding Road was read and is part of this record. Mr. Fleurent, Jr. asked if the petitioner had read the requirements of the By-Law. Mr. Fitts stated he will and will comply with them.

Motion to grant the Special Permit was made by Mr. Cox, Jr.; seconded by Mr. Silva.

Members voting to grant the Special Permit: Mr. Borelli, Ms. Cook, Mr. Manchester, Mr. Cox, Jr. and Mr. Silva.

Members voting not to grant the Special Permit: None.

The Special Permit is GRANTED by a vote of five (5) in favor and none (0) opposed.

III. OTHER BUSINESS:

ADJOURNMENT

Mr. Kendall moved to adjourn the meeting. Mr. Cox, Jr. seconded. The vote was unanimous. The meeting was adjourned at 7:15 PM.

Respectfully Submitted,
Patricia Fowle, Secretary